

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3751 OF 2000

Rashtriya Ispat Nigam Ltd. ..Petitioner

Vs.

Gram Panchayat, Kalamboli & Ors..Respondents

Mr. S.A.Bhalwal i/b. M/s.Vyas & Bhalwal for the Petitioner

Mr. C.G. Gavnekar, for respondent No.1.

Mrs. M.P.Thakur, AGP for respondent No.3.

CORAM : F.I. REBELLO &

R.V. MORE, JJ.

DATED : 11TH JANUARY, 2007

P.C.

. It is the case of the petitioner that no tax can be demanded from them by the respondent No.1 as the tax demanded is in respect of an area which is falling within the village Panchayat of Asudhgaon. They are relying upon a letter issued by the Deputy Sarpanch of the Grampanchayat dated 3rd November, 1999 and the order issued by the Mumbai Metropolitan Regional Development Authority dated 12th August, 1996.

2. The boundaries of a village Panchayat had to be by way of Notification in terms of Section 4(1) of the Bombay Village Panchayat Act, 1958. The demand has been made on the petitioner in terms of Section 124 of the Bombay Village Panchayat Act, 1958. The issue as to whether a particular land falls within the said boundaries is a question of fact. On a demand being made under Section 124 an Appeal lies under Section 124(5) of the Bombay Village Panchayat Act,

1958. All issues and contentions are available in Appeal including the contention as to whether the land falls within the notified area of the Village Panchayat. Considering that the issue raises a finding of fact it will be appropriate that the petitioners pursue the remedy by way of an Appeal before the Appellate Authority which can record such finding of fact. We have left all questions open for consideration before the Appellate Authority. In the meantime the petitioner to continue to pay in terms of what they are presently paying. Counsel states that they are at present paying at the rate of 60%. The petitioner to continue to pay at the said rate. Needless to say that if the appeal is dismissed the petitioners are bound to pay all the arrears in terms of the demand as made to them.

. Writ Petition stands disposed of accordingly. No order as to costs.

(F.I. REBELLO, J)

(R.V. MORE, J)